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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,107	12/29/2006	Nicolaas Theunis Rudie van As	09246/RPM	5350
1933 7590 07/30/2009 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER				
CHOO, MUNSOON				
ART UNIT		PAPER NUMBER		
2617				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/557,107

**Applicant(s)**

VAN AS ET AL.

**Examiner**

MUNSOON CHOO

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/14/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### DETAILED ACTION

Note: Objection to the drawing in the previous Office Action has been withdrawn.

#### ***Response to Arguments***

1. Applicant's arguments, with regards to claims 1 filed May 29, 2009 have been fully considered but they are not persuasive.
2. **On page 10-11 of the Applicant's Response, applicants argue** Kanerva does not disclose in claim 1 that:
  - The communication as comprising a header including sender address information and receiver address information, and message content which includes a user inserted code wherein a message is added to the communication based upon the user inserted code.
3. **The Examiner respectfully disagrees with Applicant's arguments.**

The communication as comprising a header including sender address information and receiver address information (**Fig 1 ref 1A to 1D: Message Centre knows the message comes from subscriber A (sender address) and also knows going to destination subscriber B (receiver address)**), and message content which includes a user inserted code. (**Page 3 L28-36: Message from subscriber A has (includes) preferences (code) about what advertisement is allowed (inherently, should have been inserted) by subscriber A. Bouthors, for further clarification, abstract: "user inserted active code", P[11]: radiotelephone, P[39]: Said active code for advertising type**) wherein a message is added to the communication based upon the user inserted code. (**Page 3 L28-36: Advertisement (claimed message) is added to the message (claimed communication) according to user A's preference (code)**)

4. **Therefore, in view of the above reasons, Examiner maintains rejections.**

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1-8 are rejected under 35 U.S.C. 102(b) as anticipated by Kanerva, Mikko (WO 02/054803 A1, hereinafter "Kanerva"), and is further clarified by Bouthors et al. (US 2002/0083411 hereinafter "Bouthors")

Re claim 1, Kanerva discloses a method for processing digital communication traffic in a network comprising a central communication processing structure including a communication server and a system server and a number of distributed devices of users designed for communication with the central communication processing structure, comprising:

**(Abstract: Message Centre (MC) is the communication server. The third party (retrieves information from a database (DB), and adds said information to the message) or the MC can be the system server)**

the communication server receiving a communication coming from one of the distributed devices which communication is addressed to another one of the distributed devices (Fig 1 ref 1A and 1D), the communication comprising a header including sender

address information and receiver address information (Fig 1 ref 1A to 1D: Message Centre knows the message comes from subscriber A (sender address) and also to destination subscriber B (receiver address)), and message content (Page 3 L28-36: Message from subscriber A has preferences (code) about what advertisement is allowed (should have inherently been inserted) by subscriber A. Bouthors, for further clarification, abstract: "user inserted active code", P[1]: radiotelephone, P[39]: Said active code for advertising type) which includes a user inserted code,

in reaction to the user inserted code in the message content of the received communication (Page 3 L33: According to the information in the message), sending the communication to the system server (Page 3 L28-36: Advertisement is retrieved from database);

the system server checking whether the received communication meets at least one condition applicable to the communication or the sender;

**(Page 2, lines 18-30: MC adds advertisement, which requires condition to be met)**

**(Page 3, lines 28-36: Requires allowance from subscriber A)**

adding a message to the communication based upon the user inserted code (Page 3 L28-36) in reaction to meeting the condition and  
sending the communication including the added message to the communication server;  
and

**(Page 2, lines 18-30: MC adds advertisement, which requires condition to be met)**  
**(Abstract: A third party retrieves information (adds advertisement information)**  
**into the message and transmits (via communication server) to the recipient)**

the communication server receiving back the communication from the system server and sending the communication which has been received back to the addressed device.

**(Page 2, lines 18-30, abstract)**

Re claim 2, Kanerva discloses A method according to claim 1, wherein the check comprises: checking whether a coding of the device from which the received communication has been received meets a criterion.

**(Abstract)**

**(Page 2, lines 18-30)**

**(Page 3, lines 28-36)**

Re claim 3, Kanerva discloses A method according to claim 1, wherein the check comprises: selecting a message from a number of messages depending on the result of the check.

**(Page 3 lines 28-36: The advertisements allowed (messages selected) by subscriber A)**

Re claim 4, Kanerva discloses a method according to claim 3, wherein selecting a message from a number of messages takes place depending on the user inserted code in the received communication.

**(Page 3 lines 28-36: Depends on the advertisements allowed by subscriber A or depends on subscriber A's preference (code))**

Re claim 5, Kanerva discloses A method according to claim 3, wherein selecting takes place depending on variable data determined upon sending the communication which relate to the sender or the recipient, such as date and/or time and/or location of the sender or the recipient.

**(Note: Selection can depend on variable data such as :)**

**(Page 4 line 11-13: Advertisement related to sports gear, preferred by subscriber A)**

**(Page 4 line 23-25: Topics picked by subscriber B)**

**(Page 4 line 35-36: Be selected on criteria set by a network operator, a regulator or a religious instance)**

**(Note: Variable data can be anything, thus it has a rational for modifications)**

Re claim 6, Kanerva discloses A method according to claims 3, wherein selecting takes place depending on data stored in advance related to the sender or the recipient.

**(Page 4 lines 18-23)**

Re claim 7, Kanerva discloses A method according to claim 1, further comprising registering, for at least a number of the devices or users, data related to sent communications and the messages added to them for each device or each user separately, and

**(Page 3 lines 28-36: Subscriber A has been registered because the database has a list of advertisements that are allowed by subscriber A)**

**(Abstract: Billing database 31)**

recording data in at least one payment file depending on mutations of data related to sent communications and the messages added to them.

**(Abstract: Data can be recorded into billing database, and said data can be retrieved into a report (file))**

Re claim 8, this claim of a communication processing structure corresponds to the method claim 1, and therefore, the analysis of rejections has already been done.

### ***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUNSOON CHOO whose telephone number is (571)270-7140. The examiner can normally be reached on Monday through Friday 7:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571)272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Munsoon Choo/  
Examiner, Art Unit 2617

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